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EXAMINER

ALVAREZ, RAQUEL

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,916
Filing Date: September 30, 2003
Appellant(s): FITZPATRICK ET AL.

Frank Agovino
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/21/2009 appealing from the Office action mailed 3/19/09.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-10, 13-25, 27-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggleston (6,061,660 hereinafter Eggleston).

With respect to claims 1, 3-9, 16-25, 27-47, Eggleston teaches a system comprising a resource of programs for participation by participants, wherein a participant has one or more participant accounts (i.e. consumers participate and are provided discounts/incentives/offers under the program)(see figure 11).

A platform for providing access to the resource of programs through one or more interfaces via a network, said programs to be operated on the platform having an administrative interface for use by an administrator for interfacing with the platform, the administrative interface for permitting the administrator to access the programs via the platform, select for the client a particular program from the accessed programs wherein the client has one or more client accounts and wherein the selected particular program is operated by the platform, configure the selected, particular program of the client, and track the configured program of the client (i.e. sponsoring company selecting the promotion type and tracking the promotions)(see Figures 11 and 23);

a site coordinator interface for use by a site coordinator for interfacing with the platform, the site coordinator interface for permitting the site coordinator to access the particular program via the platform, and support the particular program of the client via

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the platform, administrate the particular program on the platform, track progress of the particular program on the platform, issue discretionary awards for the particular program from the platform, export data from the particular program on the platform, calculate awards relating to the particular program on the platform, and fulfill orders of the particular program via the platform (see third party fulfillment)(Figure 21);

a participant interface for use by participants of the particular program for interfacing with the platform, the participant interface for permitting each participant of the particular program to access the particular program via the platform, and review information relating to the accessed particular program (employees or customers)(see Figures 17 and 19).

With respect to claim 10, Eggleston further teaches the client or the administrator may consolidate two or more programs in which the participant is enrolled (col. 35, lines 3-20).

With respect to claims 13-15, Eggleston further teaches defining a hierarchical group of participants and is permitting to define a rule applies to a selected group of participants wherein the hierarchical and selected groups are different according to geographical location so that the hierarchy is defined by location (Figures 16-18).

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Claims 11-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggleston.

Claims 11-12, further recite creating 4 distinct websites including a participant website for the participant and selecting from a plurality of templates and artwork. Official Notice is taken that it is old and well known to create websites in order to create an address location on the Internet. Websites having various formats and design. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included creating a participant website for the participant in order to keep the information about the particular program in one single location and customize based on preference.

(10) Response to Argument

Appellant argues that Eggleston teaches away from a centralized platform because Eggleston discloses that a selected program must be downloaded to the sponsor's own web server, such that each sponsor's program is on its own web server and not a centralized location. The Examiner wants to point out that Appellant is concentrating on one embodiment of Eggleston and is overlooking other fair teachings of the reference. Figure 21 and col. 46, lines 41-50 teaches that if the fulfillment is to be done by the third party (host) then the information is mailed at step 676 to the third party for fulfillment of the award programs. In Eggleston, the incentive program is

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downloaded from the host (third party) maintains the incentive program on its own website (centralized) and participants have access to the incentive program through the sponsors. In addition, col. 41, lines 6-27 teaches the details of how items stored in the award database are fulfilled either by the **third party** (host), sponsor or retailer.

Fulfillment is defined by carrying out the processing of an order including picking, packing, and shipping of product. In Eggleston the host (third party) is involved in the fulfilling the awards, if the awards are fulfilled by the host (third party) and the third party is mailed the information file to fulfill the awards, then the award must be tracked and calculated by the party that is fulfilling the award and in the case of Eggleston, the third party (host) is the one mailed all the information to maintain and fulfill the awards.

Appellant argues that Eggleston doesn't teach consolidation of client or participant accounts. The Examiner disagrees with Applicant because Eggleston teaches merging or consolidating the award programs "The sponsor is also permitted to design combinations of incentive programs, so that, for example, successful completion of a given incentive program results in eligibility to participate in another incentive program" (quote taken from Eggleston col. 35, lines 5-9). In Eggleston, the participant accounts are consolidated because in Eggleston, there are various incentives programs 1-N that are run by the host(third party), the customer (participant) having one account # (812) to access the various incentive programs 1-N (see Figure 17) that she or he might be enrolled in.

Appellant argues that Eggleston doesn't teach "a site coordinator interface for use by a site coordinator for interfacing with the platform, the site coordinator interface

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for permitting the site coordinator to access the particular program via the platform, and support the particular program of the client via the platform, administrate the particular program on the platform, track progress of the particular program on the platform, issue discretionary awards for the particular program from the platform, export data from the particular program on the platform, calculate awards relating to the particular program on the platform, and fulfill orders of the particular program. Examiner disagrees with Appellant because as explained above in Eggleston the host (third party) is involved in the fulfilling the awards, if the awards are fulfilled by the host (third party) and the third party is mailed the information to fulfill the awards, then the award must be tracked and calculated by the party that is fulfilling the award and in the case of Eggleston, the third party (host) is the one mailed all the information to maintain, calculate, track and fulfill the awards (Figure 21 and 46, lines 41-50).

Appellant argues that Eggleston doesn't teach that the site coordinator interface, which is different than the administrative interface, functions to permit the site coordinator (who is different from the administrator) to access, support, administrate, track, issue, export and calculate and fulfill and permit the participant (who is different than the administrator and site coordinator) to access and review. The Examiner disagrees with Appellant because Eggleston teaches the site coordinator (i.e. third party company) accessing, select tracking and fulfillment of the awards (see Figure 21 and 46, lines 41-50). The administrative interface (i.e. sponsoring company being different than the third party company)(Figure 21) tracking, calculating and consolidating the award programs (col. 35, lines 5-9) and the participants (i.e. employees or customers

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being different than the third party company and the sponsoring company) accessing, reviewing and obtaining the prizes of incentive programs 1-N (see Figures 17-18).

Therefore contrary to Applicant's arguments, Eggleston teaches the three separate and distinct entities.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Raquel Alvarez/
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